

1 PLANNING BOARD COUNTY OF ALBANY
2 TOWN OF COLONIE

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4 *****
5 FUNERAL DIRECTORS SUPPORT SERVICES OFFICE
6 605 SAND CREEK ROAD
7 APPLICATION FOR CONCEPT ACCEPTANCE
8 *****
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10 THE STENOGRAPHIC MINUTES of the above entitled
11 proceeding BY NANCY STRANG-VANDEBOGART, a shorthand
12 reporter commencing on December 6, 2011 at
13 8:53 p.m. at the Public Operations Center
14 347 Old Niskayuna Road, Latham, New York 12110
15

16 BOARD MEMBERS:

17 PETER STUTO, ACTING CHAIRMAN
18 LOUIS MION
19 TIM LANE
20 BRIAN AUSTIN
21 PAUL ROSANO
22 ELENA VAIDA Esq., Attorney for the Planning Board
23

24 Also present:

25 Michael Tengeler, Planning and Economic Development
Daniel Hershberg, PE, Hershberg and Hershberg
Tom Johnson, PE, Barton and Loguidice
Jonathan deForest, BBL Construction Services
John Fahey
Wayne Larson
Art Snay

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1 CHAIRMAN STUTO: We're calling up the
2 final project for consideration today. This is
3 the Funeral Directors Support Services Office,
4 605 Sand Creek Road, application for concept
5 acceptance. This is a 21,383 square foot
6 two-story office building.

7 I will let Mike Tengeler give an
8 introduction and then we'll turn it over to
9 the applicant.

10 MR. TENGELER: The site is at
11 605 Sand Creek Road. They're here for concept
12 acceptance. This is a two-story office
13 building. This is the Funeral Directors
14 Support Services Office.

15 They're also here, I believe, requesting
16 a couple of waivers from the Board.

17 Barton and Loguidice is the TDE that's
18 been working on this proposal. Hershberg and
19 Hershberg is here for engineering - Dan
20 Hershberg is here.

21 CHAIRMAN STUTO: Mr. Hershberg, can you
22 tell us about your project?

23 MR. HERSHBERG: Thank you, Mr. Chairman.
24 Let me introduce who is with me. Mr. deForest
25 is the Vice President of BBL. Mr. Martin is

1 with BBL. Mr. Obermyer is representing the
2 owners. We're all here today so that we can
3 answer any questions that this Board may have.

4 The site is on the corner of South Family
5 Drive and Sand Creek Road. This is Sand Creek
6 Road and this is South Family (Indicating).
7 This lot is a portion of a large lot that was
8 created in about 1998 or so when a subdivision
9 was created and CBA was constructed on South
10 Family Road.

11 CHAIRMAN STUTO: Is that lot already
12 subdivided off?

13 MR. HERSHBERG: We proposed a minor
14 subdivision to be concurrent with this
15 application to apply for a minor subdivision
16 to make this into a two lot subdivision.

17 Let me just tell you a little bit about
18 the Funeral Directors Support Services. What
19 they provide here is that this is a group that
20 does things like lobbying for the funeral
21 directors with the New York State Legislature.
22 They provide services where they provide
23 information and data that the body might need
24 to function better. There are no funerals that
25 take place here, no embalming takes place

1 here. Nothing takes place here that has to do
2 with burials. This is a support service group
3 that works with people. They currently have
4 offices on New Karner Road in the Town of
5 Colonie.

6 They were searching for a site. They came
7 to BBL and BBL assisted them with a search for
8 the site. The goal was to find the site and
9 they found a site that keeps them within the
10 Town of Colonie. This required a subdivision
11 because the adjacent lot was too small to
12 accommodate this project.

13 This here is actually a Niagara Mohawk
14 right of way (Indicating) and this line coming
15 through the site is the City of Watervliet's
16 water main. It's a very old water main coming
17 from the reservoir up from Guilderland that
18 goes all the way down to the City of
19 Watervliet.

20 CHAIRMAN STUTO: It goes through the
21 airport, too.

22 MR. HERSHBERG: A water line is always a
23 major concern. People in Watervliet don't want
24 people to disturb over the top of it, if they
25 can. We tried to limit our project to the

1 north side of that easement so we don't have
2 to do anything over it.

3 We determined that in regard to the
4 parking demand, we thought that we had to show
5 some banked parking.

6 The current building at full occupancy
7 would be 46 employees. The only time that any
8 more than 46 people would be in the office
9 would be when there were board meetings where
10 members come in. Various funeral directors
11 have people that come to these meetings and at
12 such time there is about 75 people on-site.
13 That's why we thought that we didn't want to
14 build the entire 96 parking spots. We wanted
15 to bank some. We don't think that it would
16 ever be needed, but we show them there for the
17 purpose of showing how we can bank them.

18 CHAIRMAN STUTO: Where are the banked
19 spots?

20 MR. HERSHBERG: The other side of this
21 area right here (Indicating).

22 CHAIRMAN STUTO: Are you allowed to cross
23 the water main?

24 MR. HERSHBERG: Yes, we are allowed to
25 cross that easement.

1 CHAIRMAN STUTO: You can't build parking
2 on it, I assume.

3 MR. HERSHBERG: You can. We didn't show
4 any parking on it. I think that we can
5 certainly cross it. The easement talks about
6 protecting the water main. There are certain
7 things that we have to do to satisfy the City
8 of Watervliet. We believe that we met all of
9 our obligations there. Obviously, the City of
10 Watervliet will have a right to review it. We
11 carefully tried to avoid doing any grading
12 over it. We just really want to leave that
13 area of the site alone.

14 CHAIRMAN STUTO: What is the process for
15 the City of Watervliet?

16 MR. HERSHBERG: The City of Watervliet
17 would have an easement. We would normally
18 contact the city manager and he would refer us
19 after he reviewed our application.

20 CHAIRMAN STUTO: So, would we expect a
21 letter from them?

22 MR. HERSHBERG: I think that normally
23 they wouldn't respond.

24 CHAIRMAN STUTO: Can I ask our TDE to
25 keep track of that? We want to make sure that

1 we get a letter.

2 MR. HERSHBERG: It was noted in all the
3 TDE letters that the City of Watervliet should
4 be involved in this. It's clear that it was a
5 governing factor in placing the building and
6 everything else to keep it off that easement.
7 There is no reason for us to disturb it. We
8 don't want to have to do any special treatment
9 over the top of it.

10 We did meet with the Executive Director
11 of the Shaker Historical Group to give her a
12 heads up on what we were proposing to do here.
13 Again, this is in a historic district and we
14 wanted to resolve any questions. We showed her
15 this building elevation plan and she indicated
16 that she would bring it to her Board of
17 Directors and talk with them and in due
18 course, they would get a letter of
19 recommendation regarding this application. She
20 personally didn't think that she had any
21 objection to it. There is no goal here to try
22 to mimic the Shaker type of housing or old
23 buildings. This building has a lot of federal
24 architecture features to it and some colonial
25 features to it. We think that it makes a good

1 entry level for South Family Drive, which goes
2 down to CBA.

3 There are no plans for this part of the
4 site. Some day, there might be another
5 proposal for that site in due course, as the
6 economics allow. The main concern that she had
7 was the landscaping. She said that essentially
8 they would really like us to do landscaping.
9 That's why I have, I think, the landscaping
10 that was described by the TDE's landscaping
11 architect as a little odd. It is. Some of the
12 things that she said we ought to use are some
13 of the things that they used in their herb
14 gardens. There are holly hocks and things like
15 that as a landscape item. She gave us a list
16 of the kind of things that during the lifetime
17 of a farming community were farmed there.
18 Roses were farmed there, a whole bunch of pear
19 trees were farmed there. So, we designed this
20 with some pear trees, a rose garden area, a
21 line of holly hocks along this side
22 (Indicating). This is not cast in stone, but
23 we tried to use those items that she
24 recommended would be consistent with what was
25 used there. I think that was our intent to try

1 to show those items. We sent her a copy of
2 this plan concurrent with our submission to
3 the Town. We think that she'll see the effort
4 there. Whether or not she concurs that it's
5 good, bad, or indifferent, that's yet to be
6 determined.

7 This parking was arranged around here
8 (Indicating) and we are aware of the
9 requirements for the certain percentage of
10 green area here and we will comply. I think
11 that there was a question as to whether or not
12 this area would comply and we think that we
13 can and will comply with the required green
14 area in that parking area. We don't need to
15 request a waiver from that portion. We can
16 comply with just rearranging some of these
17 islands.

18 The stormwater management area - although
19 this is in the front setback, the sides are
20 the building are here (Indicating), even
21 though the entrance is off here. Again,
22 hydrologically, everything drains to this
23 point (Indicating). We were sort of stuck with
24 putting our stormwater management area in that
25 location. We are using a compliant system with

1 GP0-10-01, the green infrastructure plan,
2 which I understand you folks had a workshop on
3 and you're familiar with. We comply with it by
4 using porous pavement for all pavement area.
5 We're taking the roof drainage and running it
6 over to what's an infiltration basin at this
7 location here (Indicating). Hopefully those
8 are compliant with GP0-10-01. We think
9 essentially that a feasibility study shows
10 that these all meet the requirements of the
11 GP0-10-01. That will be a good system. It
12 prevented us from having to put a collection
13 system in there.

14 We do provide a modest slope in this
15 direction (Indicating) so that on the odd
16 chance that you may get a dense freezing rain
17 and a rain over the top of it, it won't
18 accumulate over there. It will drain slowly to
19 the same direction that it drains here
20 (Indicating). Porous pavement, as we
21 understand, is a very forgiving item. It
22 handles frost and freeze very well and it also
23 does very well with regard to the stormwater
24 management issues.

25 We put a sidewalk down the side of the

1 parking lot and out to Sand Creek Road. The
2 sidewalk on Sand Creek Road is an issue here.
3 I would just like to address some of the
4 concerns that the applicant has.

5 A request was made that this applicant
6 provide a sidewalk all the way from South
7 Family Drive to Shaker Run Apartments. About
8 870 feet of that is in the Village of Colonie.
9 Here is the Niagara Mohawk right of way and
10 here is our parcel here (Indicating). What
11 this plan shows is proposing to do a sidewalk
12 beyond our property limits - another 125 feet
13 or so to the Village line and stop there. Let
14 me just explain the rational here.

15 To put a sidewalk down the side of Sand
16 Creek Road is not a simple project. If you
17 look at Sand Creek Road, it's a fairly narrow
18 shoulder and then there is a significant ditch
19 line on that side of the road. To put a
20 sidewalk in there, we would have to, in our
21 opinion, relocate the drainage ditch back from
22 Sand Creek Road. In our way of thinking, we
23 believe that this, in all likelihood, a
24 federal wetland portion there. So, the Army
25 Corps of Engineers would probably be involved.

1 We would have to relocate that drainage course
2 and build up the shoulder. There is a new
3 culvert in there that would have to be
4 extended out further, and it would really be a
5 significant problem for the developer to have
6 to build this other 875 feet.

7 There is a letter of support on behalf of
8 the Village of Colonie that said that they
9 would like us to do this. We think that it's
10 an unfair burden to put on the developer here
11 to have to do 875 feet of offsite additional
12 improvements. We would like to be able to
13 pursue other opportunities to meet the needs
14 of pedestrian access beyond that as a
15 condition of approval.

16 I'd like to get back to the waivers that
17 we do need. We do need a waiver because this
18 building is further back than a 20-foot
19 setback from Sand Creek Road. We don't think
20 that's an inappropriate setback at this point.
21 If you want to take a look at the adjoining
22 site, this is a church here with parking in
23 front of the building (Indicating). The
24 setbacks of all of these buildings around here
25 are greater than 20 feet. There is also a

1 20-foot utility easement at the front of the
2 property. So, we'd be right at the back of
3 that utility easement. We just don't think
4 that it's a rational requirement to have this
5 building 20 feet back from Sand Creek Road.
6 For that reason, we're asking for a waiver.

7 MS. VAIDA: Mr. Hershberg, with all due
8 respect, I know that you're familiar with the
9 Code and in order for the Planning Board to
10 grant you that waiver, you have to show that
11 you can't comply with it and not that you
12 think it's a good idea.

13 MR. HERSHBERG: The letter said that we
14 didn't make any attempt to.

15 Let me point out the topographical
16 problems of doing it.

17 This site drops from about an elevation
18 of 318 or 319 to 314 back here (Indicating).
19 If we put the building here, and we set the
20 building elevation high enough there
21 (Indicating), we would have to pour in excess
22 of 70,000 cubic yards worth of material to
23 fill that parking lot up so that we'd have a
24 smooth -

25 MR. LANE: Do we have documentation of

1 that? There's nothing in our packet that has
2 that information.

3 MR. HERSHBERG: We didn't show you how we
4 ended up with the layout like this. We could
5 have and we can provide that for you. We can
6 show you that plan. We went through three or
7 four iterations of this plan. One was
8 compliant with the Code in putting it 20 feet
9 off this line and really at the corner there
10 (Indicating). We think that would not be an
11 appropriate use here. But again, we tried that
12 and what it forced us to do was to raise the
13 grade in order to have an handicapped
14 accessible transition for our parking to the
15 rear. To have a proper slope on a parking lot,
16 we would have to bring a significant amount of
17 fill in here (Indicating). Right now, by
18 putting the building back here, we put a small
19 amount of fill under the building footprint
20 and all this parking lot stays pretty much at
21 grade so we don't have to regrade the site to
22 make it happen. I would say that was a
23 practical difficulty of performing this.
24 Whether or not that is suitable justification,
25 that's in this Board's hands to determine

1 that. We can provide the data on that, but we
2 tried it and we ended up with a significant
3 earth shortage with regard to this project.

4 The location of the parking was somewhat
5 triggered by our need to stay out of this
6 easement here (Indicating) and provide parking
7 at an approximate distance to the end of the
8 building.

9 Thus, the second waiver that we need is
10 for this parking to be in the front yard.
11 Again, if you identify Sand Creek Road as the
12 front yard, this portion of the parking is in
13 the front yard.

14 The other waiver that we require is where
15 the location of the detention basin is. The
16 detention basin is within the front yard of
17 this site. The front yard - is not the front
18 yard as a setback line, but the front yard of
19 the building extended from side to side. If
20 you took this distance here (Indicating) and
21 extend it from property line to property line,
22 a portion of that basin is in what we would
23 call the front yard. We think that's how it's
24 defined. It's certainly not in the front yard
25 setback. The setback line is here

1 (Indicating). We're obliged to use as the
2 front yard, the area equivalent to the front
3 setback of our building. If we extend that
4 from side to side, a portion of that
5 infiltrates the basin there. As I said,
6 because of our goal to take this roof drainage
7 and not build a standard filter system or
8 standing discharge system but use an
9 infiltration system, we did extensive soil
10 tests in the area and this area was suitable
11 and it was also downstream. Water doesn't run
12 up stream very well, unless you want to pump
13 it. Essentially, this is the area that was
14 left for us to work with. We think that's a
15 waiver that wouldn't present traffic
16 difficulties for us to do it any other way. To
17 put this drainage in the rear yard would
18 require us to probably put something on the
19 far side of the Watervliet water main, which
20 would require a high cost to the Watervliet
21 water main. So, those are some of the
22 difficulties with complying with the design
23 standards.

24 CHAIRMAN STUTO: We're still talking
25 about front yard parking, right?

1 MR. HERSHBERG: Yes. Again, if I read the
2 letters correctly, the front yard would be
3 defined as the area from Sand Creek Road. So,
4 this portion of the parking
5 (Indicating) - we're asking for about
6 one-third of our parking to be in the front
7 yard setback area. The setback area is not the
8 20 foot area, but it's actually the area in
9 front of the building. That would be defined
10 as the front yard for the purposes of that
11 front yard definition.

12 CHAIRMAN STUTO: While you're on the
13 topic, I'm not necessarily opposed to the
14 parking the way that it's proposed now. Could
15 some of the parking that's near Sand Creek be
16 put where your banked parking? I don't know if
17 that's better or worse. I want to ask the
18 question while we're on it.

19 MR. HERSHBERG: We took this area and we
20 cut this area off here so that we don't have
21 to come to you for a waiver there
22 (Indicating). That would require all of that
23 parking at the back of Watervliet. Again, the
24 practical difficulty there is that is going to
25 create concerns regarding highway costs and

1 two driveway crossings across Watervliet's
2 water main.

3 CHAIRMAN STUTO: And it puts your parking
4 further from the building.

5 How wide is that easement?

6 MR. HERSHBERG: That easement is 30 foot.

7 Would it be insurmountable? No. But we
8 think that from a standpoint of trying to
9 consider the City of Watervliet's concern
10 about the protecting their water main - that's
11 something that we're trying to avoid.

12 MR. LANE: Usually those old pipes are
13 encased in concrete, aren't they? They're
14 pretty well secured.

15 MR. HERSHBERG: If you contact the City
16 of Watervliet, they will say that if you're
17 going to move any equipment over the top,
18 please protect it with bridging and stuff like
19 that. Despite the fact of the age of it, or
20 the fact that it's encased, my guess is that
21 they're very concerned about the joints and
22 stuff on a pipe of that age. Every time that
23 we've had projects along the City of
24 Watervliet, they've taken great care to try to
25 keep us off of it. I think that they are

1 concerned about it. If in fact this waiver
2 were not granted, we would have to go back and
3 redesign and probably take advantage of where
4 the banked parking is with some sort of rear
5 entrance to the building for employees. That's
6 not undoable, but we think from the standpoint
7 of trying to honor the City of Watervliet's
8 easement requirements, I think that it's a lot
9 more beneficial to keep it all out there.

10 This is the building elevation view
11 (Indicating). We think that it's an attractive
12 building. We think that it meets the needs of
13 the applicant. It transitions from a couple of
14 smaller homes over here (Indicating) to the
15 architecture of CBA. It's very hard to be
16 consistent with the Russian Orthodox Church or
17 the mosque, but those are two adjoiners on the
18 side which have very unique type architecture.

19 The goal here with the design of the
20 building is that it functions well, is
21 attractive -

22 CHAIRMAN STUTO: Is that a brick surface?

23 MR. HERSHBERG: Yes, this is all masonry
24 (Indicating).

25 CHAIRMAN STUTO: All the way around?

1 MR. HERSHBERG: All masonry, yes. The
2 building is a steel and masonry building. This
3 is all actual treatments on here. There is a
4 matching patio on the far side there. We were
5 talking about planter boxes and that sort of
6 stuff on the patio and try to dress it up a
7 little bit. Again, from the standpoint of the
8 architectural goals of the design standards;
9 we think that this building goes a long way
10 towards meeting the normal requirements of
11 using masonry etcetera. It's an attractive
12 building.

13 There were a couple of issues raised
14 about landscaping issues. We did propose
15 barberry plants. These are an evasive species,
16 based upon the proximity of the Albany Pine
17 Bush. That's the only reason that it's
18 considered evasive. We'll take that up when we
19 complete the planting plan.

20 Again, most of the comments in the Barton
21 and Loguidice letter - we don't have any
22 comment with the requirement. The one issue
23 that we have has to do with the requirement of
24 the sidewalk all the way down to the Village.
25 That was a comment. I think that the

1 department letter as well as the Barton and
2 Loguidice letters addressed that. That's the
3 one real design issue that we're troubled by
4 because it's a significant cost for this
5 applicant.

6 We're prepared to answer any questions.

7 CHAIRMAN STUTO: Okay, we'll turn it over
8 to our TDE and then we'll open it up to the
9 public.

10 Tom Johnson, of Barton and Loguidice.

11 MR. JOHNSON: Thank you. Basically you
12 have in front of you a letter dated December
13 29th which is 7 pages long. Most of the letter
14 talks about design standards where they are in
15 compliance. There are some minor comments on
16 the narrative descriptions. The main thrust of
17 the letter can be found on page three in
18 talking about the waivers. Again, Dan and
19 counsel were talking about justification being
20 provided to the Board, rather than just
21 discussion points.

22 CHAIRMAN STUTO: If we do go in that
23 direction, we're going to ask you to draft it.
24 It takes that burden off and one way or
25 another you're going to pay for it. Either

1 he's going to draft it and you can pay for it
2 or you can define the rationale the way that
3 you have it.

4 MR. HERSHBERG: We do have data and
5 information that shows our attempt to comply.

6 MR. JOHNSON: I just have a clarification
7 on page three where we have listed that four
8 waivers would be required; both one and four.

9 One is the orientation of the building.
10 It should be parallel or perpendicular to the
11 road. That wording is a recommendation as a
12 should and not a shall. So, a waiver is not
13 actually required for that.

14 The stormwater management - something
15 that Dan was talking about earlier and also
16 mentioned by Mike Lyons about the stormwater
17 management basin being the front yard. Again,
18 that's a recommendation as a should condition
19 and not a shall condition.

20 CHAIRMAN STUTO: What number is that?

21 MR. JOHNSON: That would be number four.

22 So, the actual waivers, as Dan had
23 mentioned, would be number two and three and
24 those are also mentioned in Mike Lyons' letter
25 as well.

1 The third waiver requested by Mike Lyons
2 is the 20-square foot landscaped area for each
3 parking stall. As the applicant just
4 mentioned, they are not requesting that waiver
5 because they say that they're going to
6 redesign the site to make sure that they
7 comply with that requirement.

8 CHAIRMAN STUTO: Is that in your letter,
9 just so I can make a note of that?

10 MR. JOHNSON: In Mike Lyons' letter, yes.

11 On page four, under the narrative
12 description comments - number two - we talk
13 about the wetland permit. Originally, there
14 were wetlands on the site. We consider that it
15 would be good to have more documentation as to
16 what is the status of that permit and what
17 happened to them.

18 CHAIRMAN STUTO: I drove by it and it
19 looked kind of reedy to me. What do I know?

20 MR. ROSANO: Isn't it true that a lot of
21 places - if you left them alone long enough
22 and the soil and the water was there - half
23 the farm fields in this area would have been
24 federal wetlands if they didn't plow them
25 under?

1 MR. JOHNSON: Right. You do have the
2 letter from Ingles and Associates where he
3 went out into the field and didn't see any
4 wetlands. You have the original work that was
5 done for the entire area years ago. It was
6 just a suggestion that perhaps you might want
7 to see something from the Army Corps.

8 CHAIRMAN STUTO: What would that entail?

9 MR. ROSANO: They have maps. That area
10 would be mapped out. That also might not be
11 Army Corps. It could be just DEC.

12 CHAIRMAN STUTO: My understanding is that
13 DEC is mapped out so you can define it that
14 way. Army Corps - you have to go out and look
15 at the vegetation. But in terms of defining
16 wetland -- I'll ask the engineers to correct
17 me if I'm wrong. DEC has their wetlands mapped
18 out, but with Army Corps, it's on a case by
19 case basis.

20 MR. HERSHBERG: Correct. There are
21 reference maps that do show defined wetlands
22 based upon aerial surveys, but those don't
23 have the same as the delineated wetland that's
24 formally delineated and approved by the Army
25 Corps.

1 Can I ask Jon deForest to address this?
2 There is a history here of how this wetland
3 issue was handled in the past.

4 MR. DEFOREST: Just as a quick refresher:
5 in 1997 there was a permit with the Army Corps
6 of Engineers that incorporated the whole CBA
7 development, but basically a 173 acre parcel.
8 With that and the construction of all that
9 work, there was identified, I think, 4.9 acres
10 of wetlands that were to be disturbed and it
11 was pulled and we have copies of that permit.
12 Basically, six acres of wetlands were created
13 in this vicinity back here (Indicating). We
14 have that acceptance. So, part of the
15 request - and I think that it's a legitimate
16 requirement - is the closeout letter from the
17 Army Corps of Engineers saying that the
18 mitigation was completed, accepted and that
19 was closed.

20 Along with that paperwork we have the
21 fact that there was 1.4 acres included in that
22 disturbance on this parcel right here
23 (Indicating). It speaks to how that was
24 mitigated and that those wetlands were closed
25 and the new areas were appropriated.

1 CHAIRMAN STUTO: You're saying that they
2 contemplated the disturbance in the corner
3 that we're talking about?

4 MR. DEFOREST: The entire 172 acre parcel
5 was evaluated and there was a single
6 mitigation that incorporated all the wetlands.

7 CHAIRMAN STUTO: Including the
8 disturbance on this corner parcel?

9 MR. HERSHBERG: What was done here is to
10 trade off with creating new wetlands. On the
11 mitigation plan, you say you're going to
12 disturb or fill or eliminate a federal
13 wetland. Through negotiations in the form of
14 the Army Corps of Engineers, you come out with
15 plan three, which is creating new wetlands.

16 MR. DEFOREST: There were some wetlands
17 on the site and again, they're shown on an
18 older map. The plan was to fill those and
19 eliminate those federal wetlands and the trade
20 off was to create new wetlands.

21 CHAIRMAN STUTO: Did you fill it at that
22 time?

23 MR. HERSHBERG: Yes, the wetlands have
24 been filled.

25 CHAIRMAN STUTO: Why did you fill it then

1 if you weren't building on it?

2 MR. DEFOREST: This was part of a large
3 project that was supposed to happen a lot
4 quicker.

5 CHAIRMAN STUTO: And it never came to be.

6 MR. DEFOREST: Exactly.

7 MR. HERSHBERG: And in preparation for
8 that and because when you have a mitigation
9 plan, when you close the mitigation plan,
10 there is certainly a monitoring period after
11 that. You don't want to let these things drag
12 because consequently additional areas -- if it
13 wasn't five years on the first delineation,
14 you have to go out and delineate it again.

15 CHAIRMAN STUTO: I'm going to suggest
16 that we ask counsel to look into this and see
17 whether we need more. That's just so we don't
18 get hung up on it tonight.

19 The engineer is recommending that we go
20 to the Army Corps and get a letter saying no
21 problem. If you could advise us in
22 consultation with the engineer what you think
23 that we need, that would be good. That's
24 again, so we don't get hung up tonight. You
25 can have all the input you want with the

1 attorney and the engineer.

2 MR. DEFOREST: Elena, I think that the
3 other thing that we were offering is that the
4 engineer that did the most recent review - we
5 could provide you with a copy of that field
6 review and delineation as well.

7 MS. VAIDA: Okay.

8 CHAIRMAN STUTO: Okay, Mr. Johnson?

9 MR. JOHNSON: Basically, that sums up the
10 major issues of the letter.

11 MS. VAIDA: I just need to clarify a
12 couple of things before we close.

13 Going back to the waivers that are
14 needed, can you just review that again? I
15 think that you said that the off-street
16 parking - that they wouldn't need a waiver.
17 There were a couple that don't need waivers.

18 MR. JOHNSON: Yes, items one about the
19 building placement.

20 MS. VAIDA: You're saying that doesn't
21 need a waiver?

22 MR. JOHNSON: That would be my
23 understanding, since it's a should condition
24 and not a shall. It's a recommendation.

25 MS. VAIDA: The way that I'm reading this

1 is the 190.43 office residential says:

2 "The word shall or must is used, that is
3 integral to the goals of the district and it's
4 mandatory. However, the Planning Board may
5 waive these standards to the extent that it
6 deems necessary in order to secure a
7 reasonable development of the site. In such a
8 case the applicant must establish that there
9 are no practical alternatives to the proposed
10 waiver that would conform to the standard. The
11 Planning Board shall issue written findings
12 stating the extent of and justification of the
13 waiver."

14 If you look under the first thing - site
15 organization, building placement, it says:

16 "Building must present their main façade
17 and entrance toward the street. Building
18 should be oriented parallel or perpendicular
19 to the public sidewalk and allow for parking
20 in the rear of side of the proposed
21 structure."

22 MR. DEFOREST: Right, so that section has
23 two - it has a must and it has a should.

24 MS. VAIDA: But it says that buildings
25 must present their main façade and entrance

1 through the front street. There is also a
2 section on off-street parking.

3 CHAIRMAN STUTO: Arguably it does. It may
4 not be perpendicular or parallel, but you can
5 see it from the road.

6 Let me suggest that there is enough on
7 the record for us to grant the waivers if we
8 want to. I think that there is enough
9 justification and we'll have to put it in
10 writing.

11 MS. VAIDA: I'm just saying that in terms
12 of what you're going to submit, I would just
13 take a second look at that section as to
14 what's required.

15 CHAIRMAN STUTO: Put more justification
16 in it.

17 MS. VAIDA: There is a whole section on
18 the off-street parking. It says:

19 "New parking in the front yard shall be
20 prohibited."

21 CHAIRMAN STUTO: That's another shall.

22 MS. VAIDA: I don't know if it's
23 necessary to do it tonight, but we could also
24 designate this as a Type I SEQRA.

25 CHAIRMAN STUTO: Because it's in a

1 historic district?

2 MS. VAIDA: And the square footage.

3 MS. HERSHBERG: I don't think that the
4 building square footage or the square footage
5 of the disturbed area gets to that level, but
6 I think that we are in a historic district.
7 Consequently, I think that it's a Type I
8 action. We concurred with that and we actually
9 prepared a full environmental assessment form.

10 MS. VAIDA: I saw that there was some
11 communication.

12 MR. HERSHBERG: At the DCC meeting, the
13 Town Attorney sent a message to my client
14 saying essentially that they thought it should
15 be a Type I action. We concurred with that.
16 So, we prepared a full EAF.

17 CHAIRMAN STUTO: I have two names that
18 want to speak on this. Wayne Larson and Art
19 Snay. Who wants to speak first?

20 MR. LARSON: I think that you'll be able
21 to hear everything. I live in a little white
22 house directly across the street from this.
23 It's an old Shaker house. I've lived there for
24 40 years.

25 We've watched this area develop and we

1 know of the two developments that worked
2 with them were the mosque and then the Russian
3 Orthodox Church. We know that they went
4 through an extensive review before they could
5 be put in. They had to fit in both
6 aesthetically, and of course meet all of the
7 rules. The size of the buildings were very
8 important at that time and I don't think that
9 should have changed now.

10 If you look at the three buildings, they
11 fit very well into the area. They don't stand
12 out. They're very neat and well kept. They
13 look like they belong in the country.

14 This building sitting on Sand Creek Road
15 at 25,000 square feet, which I question for 46
16 people -- everybody should have that luxury.
17 It's too close to the road.

18 CHAIRMAN STUTO: Just on that point, if I
19 could interrupt. The zoning law requires it to
20 be closer to the road. They're asking for
21 waivers -

22 MR. LARSON: I know, but I would
23 appreciate it if you could put it another
24 2,500 feet back. As far as the the lay of the
25 land, actually, I believe the architect on

1 that. The point of this is, I'm going to be
2 reminded of my mortality because of what it is
3 every morning that I wake up. I would like to
4 be reminded of my mortality in a much more
5 gentle way. This is not the architecture that
6 should be in that area.

7 The size of the building - I question.
8 The parking, I question. The intent down the
9 road for what BBL is intending for this area,
10 I am very curious.

11 If I'm not mistaken, the Traveler's was a
12 BBL project and all you have to do is see what
13 they did to the historic district on that. It
14 looks like a Walmart.

15 CHAIRMAN STUTO: Where is that?

16 MR. LARSON: At the other end of South
17 Family. All of their buildings are red brick
18 buildings; they're boxes. That's basically
19 what this is. It's not architecturally
20 attractive at all. I'm not saying that it's
21 not an attractive building, but where it is is
22 going to be very outstanding to begin with. If
23 you've ever ridden along the road and looked
24 out in the pasture and seen a gigantic
25 structure stuck out in the middle of it, you

1 say, why did they put that there? That's what
2 this building is. It's 25,000 square feet.
3 It's not a house. So, I have a lot of problem
4 with that.

5 I more than welcome people. I mean, it
6 should be developed. I have no argument with
7 that. I think that the tenants would be good.
8 I think that it's appropriate for that area.
9 All we have is a mosque, a Russian, CBA and
10 the Loudonville church down the road. It's so
11 religious and it's all on Shaker property. I
12 think that probably the other end of life
13 should be represented on that, too.

14 I do question the architecture. I
15 question the size of the building and how much
16 parking they have to have. The church across
17 the way has less parking then they do. So,
18 it's not that we don't want to welcome them,
19 but we do want to see the architecture a
20 little bit more blending with the area and not
21 a stand out building. That 25,000 square feet
22 is approximately 10 huge residential houses in
23 that area.

24 The elevation - why does it have to be
25 two stories? Why can't they make it one story?

1 In the concept stage right now, we'd like
2 to see a little more planning put into this.
3 The Russian church went along with it and the
4 mosque did the same thing. We would ask them
5 to look again at their design and see if there
6 was something better that they could do for
7 the area and not another boxy building.

8 MR. LANE: What are your feelings about
9 sidewalks in that section?

10 MR. LARSON: There is a lot of pedestrian
11 traffic on Sand Creek Road and I'm all for
12 that long sidewalk. They're walking in the
13 street now. I've watched cars whiz by and
14 nobody does 40 miles an hour on that road.
15 Somebody is going to get hit.

16 MR. LANE: So, as it gets more developed,
17 there is a safety issue.

18 MR. LARSON: I'm sure that BBL has plans
19 for that whole area. They're doing it a bit at
20 a time, but I think that it should be in their
21 best interest to look at that. I know that
22 it's expensive, but Colonie is a town. We're
23 not a suburb of Albany. We're a little town
24 and it's very pretty and sidewalks would be
25 nice for all of the people. There are a lot of

1 elderly people that walk up and down that
2 road. Somebody is going to get hit and I don't
3 care which side you're on, you can't walk it.
4 I know it's a lot of money and it would be
5 very tough to do, gentlemen, but sometimes you
6 have to step up. They've got sidewalks all the
7 way up to the Town line.

8 I don't think that building belongs on
9 the corner of that lot. When you look at the
10 lot and how it's laid out, it's cow pasture.
11 We would appreciate at least a nice site. The
12 further back that they put it, maybe there
13 would be a little less parking lot. Give us a
14 little consideration. It's a cow pasture.
15 Maybe the Shakers won't be happy with it
16 either.

17 MR. SNAY: This is the first that I've
18 seen any of this.

19 I tend to agree with Wayne's points that
20 it does seem a little out of character. It
21 does seem very large for 46 employees.

22 The sidewalk issue -- again this is the
23 first that I've seen it. It does, to me, seem
24 like just having a sidewalk that goes to
25 nowhere might not be such a good idea. In

1 fact, it might encourage people to walk in the
2 road to get to the sidewalk either from
3 leaving this building (Indicating), or walking
4 down to the apartments or even all the way
5 down to Wolf Road.

6 I'm concerned about lighting. What are
7 your plans for lighting? The church has been
8 kind enough to restrict their lighting down to
9 one light. I wondered what you guys had in
10 mind for lighting?

11 MR. HERSHBERG: Do you want me to
12 interact now?

13 CHAIRMAN STUTO: No, let's hold back.

14 MR. SNAY: The idea was brought up for
15 the possibility of more development here.

16 Right now the traffic is not good. There
17 are times when it's impossible to get out of
18 my driveway. You literally take your life into
19 your hands. More traffic probably isn't a good
20 thing and if this is actually just the
21 beginning of what is envisioned.

22 You say that there is nothing for sure
23 with regard to further development, but you do
24 have a lot of property that you would probably
25 prefer not to have just sit vacant. Perhaps

1 some of this should be addressed at this
2 point. What is going to happen in the future
3 with all this vacant land back here
4 (Indicating)?

5 CHAIRMAN STUTO: I'm not sure how we
6 would address that. I understand what you're
7 saying. They own the land and they're
8 developers. Developers develop. So, inevitably
9 they're going to make an application, if they
10 have someone that wants to occupy the space.
11 I'm not sure how else we can study that and
12 conjecture and speculate. It zoned what it's
13 zoned.

14 The Town does have a Comprehensive Plan
15 which they periodically review. I understand
16 that they're going to renew that and they
17 renew that every five years. I guess in that
18 context, we can take that under advisement. I
19 think that's a Town Board function. I'm trying
20 to address your concern. It's not our
21 immediate function or even really our function
22 at this point to address that. I appreciate
23 the comment that you're making. I think that
24 we'll keep that in mind for the review of the
25 Town Comprehensive Plan.

1 MR. SNAY: It does seem that coming off
2 of Sand Creek and having to take a right into
3 the parking lot could potentially cause a bit
4 of a bottleneck; particularly if there is a
5 lot of traffic because it's not that far down
6 from the intersection of Sand Creek and South
7 Family. I would assume that you wouldn't want
8 traffic backed up on Sand Creek waiting to
9 make a right.

10 CHAIRMAN STUTO: Where are you saying
11 that a bottleneck would occur? Because why?

12 MR. LARSON: The school is down at the
13 end of that road. We get a lot of children
14 traveling that.

15 CHAIRMAN STUTO: Coming from which
16 direction?

17 MR. SNAY: Heading north trying to take a
18 right or heading south and taking that left.
19 It's already kind of nutty there with peak
20 hour traffic. Again, if you're coming down
21 here (Indicating) and there are cars waiting
22 to turn into the lot here, you could have a
23 possible back up onto Sand Creek because
24 people are trying to get in here and you can
25 only get so many cars in at a time. I'm no

1 traffic engineer.

2 I think that they should consider the
3 sidewalk. I understand the expense part of it.
4 It does sound expensive. Would you be better
5 off with no sidewalk? I don't know. I believe
6 that it's right from the apartments where the
7 sidewalk stops at this point. You're going to
8 have what kind of gap?

9 MR. HERSHBERG: That's an 875 feet gap.

10 MR. SNAY: Where you are walking up from
11 Wolf Road and want to come up this way, or if
12 you're leaving this office and want to go to
13 wolf Road, that's 875 feet that you're going
14 to be walking in a ditch with 40 mile an hour
15 traffic on good days.

16 I can't tell from this drawing. Is this a
17 modification to South Family Drive?

18 MR. HERSHBERG: No, that's South Family
19 Drive as it currently exists.

20 MR. SNAY: Do you know what the plans are
21 for the lighting in the parking lot?

22 CHAIRMAN STUTO: You have to address your
23 questions through me and I told them that they
24 could answer that at the end.

25 MR. SNAY: I think that's basically it.

1 Again, this is brand new. It is an attractive
2 building. There is no doubt about that, but
3 how it's going to fit in here, you're probably
4 not going to know until you see it.

5 CHAIRMAN STUTO: Okay, I'll let the
6 applicant and the TDE or Board Members chime
7 in on the comments that were made.

8 MR. HERSHBERG: I just want to speak
9 about the building size and the need for a
10 21,000 square foot building for something that
11 will start out at 20 employees and grow to 46
12 employees. They're currently going to relocate
13 20 employees at the existing site and plan to
14 go to 46 employees by growing their services.

15 This group also does an awful lot of work
16 that consists of a great deal of record
17 keeping for their members. When somebody comes
18 along and they decide that they want to
19 preplan a funeral, New York State requires
20 that records be kept regarding deposits and
21 payments and stuff like that. This group
22 services their members like that. A lot of
23 publications are done to make certain that
24 those are there.

25 We do have floor plans here which would

1 show you that record, document storage,
2 publications, a preplan room which has space
3 for planning documents when preplanning your
4 funeral, are all on here. All that stuff is
5 one of the services that this group provides
6 for its members, so that each member does not
7 have to maintain and comply with the New York
8 State regulations that regulate this. These
9 support services does that for each small
10 funeral home, or even larger funeral homes.
11 That's one of the services that they provide
12 and that does take space. You have to keep
13 hardcopies of a lot of this stuff and cannot
14 be converted to digital copies, so they're
15 required to do that. That's one of the things
16 that drives the floor plan of the site. A lot
17 of space is spent for those services.

18 And 46 is the peak that this group sees
19 as there ever being for employees on the site.
20 As I said, the peak parking demand doesn't
21 even occur on a daily basis. The peak parking
22 occurs when they have a board meeting where
23 the various members come in. One of the major
24 rooms in the building is the board conference
25 room, and that's obviously not occupied every

1 day. You do need a space to do those board
2 meetings. That's a need in a facility like
3 this.

4 The reason for the 21,000 plus square
5 foot building for 46 employees is a little
6 deceiving. We're not providing a 500 square
7 foot office for every employee. That's not the
8 way that it works out.

9 With regard to the issue about the
10 lighting: We do propose down lighting with a
11 limited amount of light standards. It won't be
12 one. I think there are a total of five with
13 all down lighting. There are zero foot candles
14 at the property line. As a matter of fact,
15 ideally we're probably at the lower end of
16 security lighting; probably 0.6 or 0.7 foot
17 candles in our parking lot to try to maintain
18 that.

19 MR. ROSANO: Dan, what times of the day
20 would you have the lights on and lights off?
21 You're not going to have those lights on in
22 the middle of the night, right?

23 MR. HERSHBERG: No, in the wintertime the
24 lights -- a photocell will probably turn them
25 off about 4:00 p.m. this time of year. They'll

1 set them based upon the last time that the
2 building is used.

3 MR. ROSANO: What kind of hours? We're
4 talking office hours?

5 MR. HERSHBERG: Typical office hours.
6 Probably out by 6:00 p.m. at the latest. The
7 lights go out then. You will have to have a
8 security light over the front and rear door so
9 that it's lit.

10 MR. ROSANO: So, it's safe to say that
11 six months of the year, those lights will
12 never go on.

13 MR. HERSHBERG: Probably not, unless they
14 have a meeting at night. Some of these board
15 meetings will take place at night. Again,
16 board meetings are periodic and they take
17 place once a month or once every couple of
18 months.

19 I'll point out the fact that this is not
20 a lease deal. This property will be sold to
21 the funeral directors. The reason that we have
22 to go through a subdivision is once we get
23 through this process and we can build a
24 building, it will be sold outright to the
25 funeral directors and they will then own the

1 property.

2 The other question was with regard to
3 future plans. Unfortunately, with this
4 economy, if we had a merging economy and
5 people were building plans on specs and
6 starting building and stuff like that, this
7 probably would have been built out quite a
8 while ago. It's a good location. It's near to
9 the highway system. It's near enough to the
10 airport. It's a big location for the type of
11 use we want here. Unfortunately, the existing
12 proper owner, BBL, does not have any current
13 plans. As soon as we get plans, you guys will
14 be the first to know. We'll have to get an
15 application here.

16 As you know one of the key elements that
17 we have to go through is the approval process
18 before we can go forward and put budgets
19 together for projects like this.

20 The question about the sidewalk - we
21 understand that it's a public benefit to put
22 the sidewalk in. The only question is: Is it a
23 reasonable public benefit for this applicant?

24 Supposed another person comes along and
25 develops the property on the other side of the

1 driveway that goes into Shaker Run Apartments.
2 That's in the Village of Colonie. They've got
3 600 feet with the frontage down to the Niagara
4 Mohawk line. Is there a responsibility for
5 them to provide a sidewalk? I know that this
6 is a difficult problem. I know that the Town
7 prefers the sidewalks, especially in the
8 pedestrian trafficked area. Sometimes they
9 require that they put a sidewalk in only in
10 the front of their property which means the
11 sidewalk goes no place. Again, we're sort of
12 doing that there, but we did carry it far
13 enough to go beyond the Niagara Mohawk line so
14 we don't have to have Niagara Mohawk put a
15 sidewalk in. What we left out was the parcel
16 next to Niagara Mohawk near the Shaker Run
17 Apartments. If somebody develops that,
18 hopefully they'll put a sidewalk in.

19 Again, this is an issue. I will point out
20 that we would have to have approval and we
21 would have to work with the Village and have
22 to work with the Army Corps of Engineers and
23 other permitting agencies. It's a county
24 highway. We'd have to go through all of those
25 approvals to put the sidewalks in. We have to

1 go through Albany County Department of Health
2 to get a work permit just to put the sidewalk
3 in front of our building. So, again, it's not
4 insurmountable, but I would point out the fact
5 that there is a substantial cost to put on
6 this owner for the sidewalk.

7 CHAIRMAN STUTO: Can you show me how far
8 you're looking. I have a different map in
9 front of me.

10 MR. HERSHBERG: This is South Family
11 drive here (Indicating) and here is our
12 building. Here is the sidewalk that we
13 proposed to build to the Town line. This is
14 the Town/Village line. This is now 875 feet
15 more from there to Shaker Run Apartments. The
16 existing sidewalks stop at Shaker Run
17 Apartments. I don't know how continuous they
18 are all the way up. The current end of the
19 sidewalk is right here at Shaker Run.

20 CHAIRMAN STUTO: Our map is marked Nature
21 Conservancy. Is that a walking path or
22 something?

23 MR. HERSHBERG: That is actually owned by
24 National Grid. The title is in the name of
25 National Grid.

1 MR. ROSANO: They have a driveway up
2 through there. It's not really a driveway, but
3 it's where they drive their trucks.

4 MR. HERSHBERG: I know for a fact that we
5 have a 50 foot preservation area on our
6 property that we have to leave undisturbed on
7 our property.

8 This is labeled land conservation zone
9 but it's the lands of Niagara Mohawk. This
10 strip here is a 50-foot strip that we are not
11 prescribing putting any development in. I
12 don't know whether the Nature Conservancy has
13 an interest in that, but this 50-foot buffer,
14 we have to keep forever green. That was the
15 development plan of the entire Airline Drive
16 project.

17 CHAIRMAN STUTO: Are you right next to
18 the football field? I'm trying to get a sense
19 of the portion of land that you're on. Is CBA
20 the next property over?

21 MR. HERSHBERG: Yes.

22 CHAIRMAN STUTO: So, nothing is going to
23 come between you and CBA.

24 MR. HERSHBERG: Here is CBA's football
25 field (Indicating). Our property is right

1 here. This is currently almost an 11-acre
2 parcel. We're knocking off slightly less than
3 half of that. There will be another parcel
4 created there by a minor subdivision. That's
5 because this building couldn't support owning
6 the entire 10 acres. If in fact we build the
7 parking that is shown there - it's over 65
8 percent green. Again, it really is a green
9 site. With the green water treatment and the
10 green space, it really meets the goals of the
11 Town regarding design.

12 MR. DEFOREST: With the sidewalk issue we
13 really had two concerns, and I think it's
14 important to articulate. I think that
15 obviously it was the cost of 875 feet of
16 sidewalk.

17 CHAIRMAN STUTO: Can you give that in
18 terms of so much per linear foot? I know that
19 you had the extra issues of the possible
20 wetlands and/or the ditch.

21 MR. DEFOREST: The initial estimate of
22 \$40,000 or \$50,000. Something in that range.

23 MR. HERSHBERG: The value of actual
24 sidewalk of that length would probably be
25 closer to about \$30,000 but the additional

1 work of extending shoulders and doing grading
2 is going to make it like \$50,000.

3 MR. DEFOREST: The cost was an obvious
4 concern. It's a significant chunk in addition
5 to the 300 or 400 feet that we're actually
6 constructing on our property.

7 The second requirement when they go out
8 to build it - the entire construction would
9 not happen within the right of way. There
10 would be grading off the side of the property
11 and then there would be grading easements on
12 property that we don't own and we don't
13 control and involving agencies like the Army
14 Corps of Engineers.

15 CHAIRMAN STUTO: Who owns that road?

16 MR. HERSHBERG: It's a county highway.

17 CHAIRMAN STUTO: Is that all within the
18 county's easement?

19 MR. JOHNSON: Are you sure that Sand
20 Creek Road isn't a Town road? Albany-Shaker is
21 county; unless they transferred ownership.

22 CHAIRMAN STUTO: Then you go into the
23 Village, too. I don't know if it changes.

24 MR. HERSHBERG: This portion of the road
25 that we talked about - the 875 - is entirely

1 in the Village of Colonie. There is nothing in
2 the Town of Colonie. It would be a Village
3 road.

4 CHAIRMAN STUTO: Either Village or Town
5 road.

6 MR. HERSHBERG: It's another jurisdiction
7 that we'd have to deal with. I think that's
8 what Jon is getting to.

9 CHAIRMAN STUTO: I think that they would
10 welcome it if it was a municipal jurisdiction.

11 MR. DEFOREST: I'm thinking that there is
12 grading outside of the Town right of way, or
13 the road right of way. If there would be work
14 on private property, that would put us in a
15 position of trying to gain those easements.

16 The financial is obviously a concern. I
17 think that we'd be more open to further
18 dialogue on the idea of a contribution of an
19 escrow of some kind of fund in paying in a
20 portion of that.

21 Like Dan said, there are multi-users that
22 would benefit. It would seem to me that it
23 would be fair that they have some ownership in
24 the construction of that sidewalk. We
25 certainly are open to the idea of some kind of

1 a contribution. We are mindful of the fact
2 that there is a significant impact fee both on
3 the traffic and the water and sewer use.

4 CHAIRMAN STUTO: You're in the airport
5 GEIS area.

6 MR. HERSHBERG: We will have mitigation
7 fees. Primarily, the two major ones are water
8 and traffic. They're not insignificant. The
9 water one is about \$40,000; \$2.13 per square
10 foot times \$21,000 - that's almost \$40,000
11 worth of water mitigation fees. Traffic
12 mitigation fees is subject to CDTC
13 computations. I guess that 24 vehicles in the
14 peak hour - we're probably another \$50,000 or
15 \$60,000 worth of fees. It's going to be up
16 there. There are probably \$100,000 worth of
17 mitigation fees.

18 There was no pedestrian mitigation.
19 Unfortunately, with the GEIS area, it would be
20 quantified and everyone would know what
21 they're in for. There was no mitigation fee
22 for a pedestrian accommodation.

23 CHAIRMAN STUTO: I wonder if that could
24 be shoehorned.

25 MR. JOHNSON: There might be something in

1 there for multimodal.

2 MR. HERSHBERG: When you're talking
3 traffic mitigation fees, I don't know whether
4 or not we could work something where we could
5 take a credit against the traffic mitigation
6 fees for providing pedestrian accessibility.
7 If we were building a new parallel road, you
8 would apply for a credit against your
9 mitigation fee. This is pedestrian traffic.
10 Again, it might behoove us to determine
11 whether that would be available to us.

12 We're aware of the Town's desire to have
13 good pedestrian accommodation. That's why this
14 issue popped up at the DCC meeting. It was
15 just the problem of doing it. If we could get
16 a partial credit against our traffic
17 mitigation fee and work with the Village to
18 make certain that they could secure
19 cooperation with the adjoining owners
20 regarding easements, this issue may really
21 be -- it's not insurmountable. I'm not saying
22 that it is. It's just a troubling thing to
23 have out there without being able to get our
24 hands around it.

25 CHAIRMAN STUTO: It's troubling to see a

1 sidewalk that leads to nowhere, too.

2 MR. HERSHBERG: DOT won't allow that
3 anymore.

4 CHAIRMAN STUTO: These gentlemen raised a
5 couple of other issues and I'm looking to you,
6 Tom, for help on it.

7 The building location, building size,
8 building architecture, parking, location and
9 the nature of the surrounding area. It is
10 zoned for it. I don't know if you could give
11 us any feedback. The applicant is welcome to
12 chime in. There are certain things that we can
13 help with, and certain things maybe we can't.
14 I don't know.

15 MR. JOHNSON: I'll start with my
16 expertise in traffic.

17 They were talking about the traffic
18 problem on Sand Creek Road. It was just
19 brought out in the airport area GEIS -- that
20 was a study done a number of years ago that
21 globally looked at this area for development.
22 This area including the vacant parcel behind
23 this building was included in that area GEIS.
24 What you probably have seen over the years is
25 actually roadway improvements to handle the

1 traffic growth. On Sand Creek Road they put a
2 new signal and they widened the roadway. There
3 are supposed to be additional signals down
4 Sand Creek Road. They realigned
5 Watervliet-Shaker Road. So, there is ongoing
6 transportation improvements to help deal with
7 traffic congestions out there.

8 MR. LARSON: When they put in CBA, they
9 said that that road that came from CBA would
10 be blocked. When they did the traffic study,
11 that was considered. That did not happen for
12 whatever reason, so you're getting traffic
13 that's coming through BBL's property and
14 they're getting more of that traffic to avoid
15 the light at Shaker and Sand Creek.

16 MR. JOHNSON: That's correct.

17 MR. LARSON: I'm concerned that the
18 busses coming out of there and the kids coming
19 out of there at night in their cars and so
20 forth - and adding this now to that choke
21 point which is the church -- the church does
22 have activities during the day. They're trying
23 to get out of the church parking lot and then
24 across the way, they're trying to get out. All
25 of the through traffic from Shaker Road is now

1 coming through the BBL property and the
2 school, the new Traveler's building - they're
3 all coming down through there. It's all
4 converging at that point. So, you'll get
5 traffic backed up. Sometimes there are 10 or
6 12 cars at a time. With this opening or this
7 exit being so close to Sand Creek Road, I can
8 see where there would be issues with that.

9 MR. JOHNSON: As the applicant mentioned,
10 they have to contribute what's called a
11 mitigation fee for transportation improvements
12 so they will be responsible for paying funds
13 into this airport area GEIS for transportation
14 improvements. With the problems that you had
15 mentioned that there is cut through from
16 CBA - it is a private road, but the people
17 still go through there. As the Town sees
18 warranted and the MPO CDTC see warranted, they
19 can possibly use these funds that are being
20 collected to study the intersection to
21 determine if something else needs to be done
22 at South Family and Sand Creek Road. So, it
23 has been looked at. It is continuing to be
24 looked at and we understand your concerns.

25 As far as the architecture of the

1 building, from what I see -- obviously it
2 doesn't match the mosque and the church. They
3 have their own architectural styles. It
4 appears to me that it does match a lot of the
5 office buildings within the Airline Drive and
6 also the Traveler's park where they have the
7 brick buildings and there is also parking in
8 front of those buildings, as well. They're not
9 close to the road. I don't know what the
10 standards were when they were put in as far as
11 requiring a maximum of 20-foot setback.

12 CHAIRMAN STUTO: You mean the scale is
13 too imposing? It seems that's what they were
14 saying.

15 MR. JOHNSON: The scale - I can't comment
16 on. I know that they show large rooms in their
17 floor plan for record storage and conference
18 rooms for when they have their meetings. So,
19 that takes up a good part of the building
20 rather than just individual office space.

21 CHAIRMAN STUTO: How tall is the
22 building?

23 MR. DEFOREST: It's 24 foot to the fascia
24 line and another eight feet on top of that.
25 It's 32 feet high.

1 CHAIRMAN STUTO: Would you call that two
2 and a half stories?

3 MR. DEFOREST: A typical house is 20 feet
4 high and then a roof pitch. So, we're five or
5 six feet higher than a big house.

6 MR. JOHNSON: The office buildings are
7 generally two stories high. Agriculture and
8 Markets may be three.

9 MR. DEFOREST: Ag and Markets is two.

10 MR. ROSANO: What address are we going to
11 use for this project?

12 MR. HERSHBERG: It was recommended from
13 the 911 coordinator - somebody said that we
14 should call it 1 South Family Drive rather
15 than 605 Sand Creek Road. We don't have a
16 problem with that.

17 MR. ROSANO: If we're changing the
18 building around, that can become a problem.

19 MR. HERSHBERG: Because our entrance
20 drive comes off South Family Drive for 911
21 purposes and stuff like that, they normally
22 like the address to reflect where the vehicle
23 access comes. We're going to probably change
24 this to 1 South Family Drive.

25 MR. ROSANO: So, more of the front of the

1 building now is facing the correct way, then.
2 It's actually going in the right direction.

3 MR. HERSHBERG: It's actually sort of
4 diagonal. The goal here was to present itself
5 to the people driving on Sand Creek Road to
6 have a view of the building rather than
7 looking at the side of the building. We think
8 that the orientation works to our advantage
9 regarding the building. It was somewhat
10 dictated by the location of this easement,
11 too. It worked out conveniently to parallel
12 that line. We think that we considered other
13 orientations in a lot of different building
14 plans.

15 Normally, when we work with BBL we do a
16 fairly exhaustive study of combinations. We
17 get 10 or 15 sketches from Dave Martin. It has
18 to do with issues that are raised by the
19 clients. We like the look from here. That
20 always impacts it. So, we think that we ended
21 up with something that our client likes for
22 BBL to build. The question is whether the Town
23 Planning Board thinks it's appropriate.

24 CHAIRMAN STUTO: I'll make a statement
25 and then I'll turn it over to the Board.

1 You'll have another opportunity to speak, if
2 you want. We don't shut people off. Let me
3 just make this statement.

4 There are some issues that are unresolved
5 in my mind. The sidewalk - you talked about
6 landscaping and the Shakers suggested
7 something, based on historic basis and farming
8 and so forth. I don't know if that's resolved.
9 The Shakers also wanted to comment on the
10 architecture. We have a couple of waivers to
11 figure out. From here, it looks like an awful
12 lot of parking lot. We have granted these
13 waivers; both with respect to the setback. I
14 think that we don't mind pushing the building
15 further back. I think that this Board has
16 historically done it on a number of occasions.
17 I'm not sure if the parking lot is in the
18 right place. These gentlemen bring some issues
19 to mind, as well. I guess the thing that I
20 want to ask the Board is: Do we want to try to
21 resolve some of these issues before we go on
22 to concept? You're entitled to develop the
23 property and we can get you back here quickly.
24 We want to vote on it and resolve it. We're
25 not going to vote on waivers until final

1 because of SEQRA.

2 MR. LANE: I would like to see some
3 documentation on the status of the waterline;
4 something from Mr. Gleason to describe their
5 concern. I would appreciate seeing that.

6 CHAIRMAN STUTO: What does everyone else
7 say?

8 MR. MION: I agree with what you just
9 said. I'd like to resolve the sidewalk.

10 CHAIRMAN STUTO: I feel that way, too.

11 MR. AUSTIN: I don't feel like it would
12 bring a financial hardship on you folks for
13 that sidewalk. Somehow, I think, perhaps
14 through the mitigation fees to help cover that
15 cost, or doing some sort of recourse in that
16 way.

17 CHAIRMAN STUTO: He was suggesting that
18 he build them, perhaps and then get a credit
19 for it.

20 MR. LANE: We have to consider the safety
21 factor. It is important.

22 MR. AUSTIN: But I can understand your
23 concern about building a sidewalk on property
24 that is not yours.

25 The only other thing that I had was going

1 back to the historical nature - the thing with
2 the Shakers. You're talking about landscaping
3 and all these flowers. We see the landscaping
4 plan with all the trees that I can't quite
5 pronounce. They're very nice, but I'm looking
6 at the architecture of the building, possibly
7 just a brainstorm - having the brick go to
8 more of a Shaker style of siding, for example.
9 The brick is somewhat imposing in a way,
10 especially all the way around the building. I
11 don't know.

12 MR. HERSHBERG: We made an effort to meet
13 with Starlyn. She's the Executive Director. We
14 had a good 45 minute meeting with her.

15 We talked about the issue of building
16 architecture of the elements of the building
17 that they liked and didn't like. Her comment
18 was the Shakers wanted to be innovative. They
19 liked new ideas and new construction. She
20 thinks that if this was brought up to a group
21 of Shaker residents there, they would love
22 this building. That was her opinion. She has
23 to go to her Board and have that drafted in a
24 response letter. She said that they have never
25 asked for people to try to imitate or pick up

1 features from Shaker architecture in new
2 buildings. That's not their goal at all. They
3 think that it's an inappropriate use of a
4 historic district.

5 The concern about landscaping was that
6 the Shakers were people of the land. They did
7 farming and her concern was that anything
8 having to do with the landscaping to make it
9 be more consistent - that was our effort to
10 put in a big rose garden in front and stuff
11 like that.

12 CHAIRMAN STUTO: I like the building,
13 personally, myself. If I was going to build a
14 building, that's what I would like to build.
15 It's expensive looking and a nice building. I
16 don't live across the street from it as the
17 Shakers do and these gentlemen do.

18 All that being said, I'm going to turn it
19 back to the Board.

20 MR. ROSANO: See, I'm confused because
21 right behind us is a project that is supposed
22 to mirror the Shakers. They wanted the
23 buildings to look like Shakers and now this
24 person is saying that they don't want it to
25 look like the Shaker style.

1 MR. HERSHBERG: I don't know whether
2 there was a change in leadership at the Shaker
3 Historic Society -

4 CHAIRMAN STUTO: Which one are you
5 referring to?

6 MR. ROSANO: Right behind us - Hastings
7 Road. They're talking about making buildings
8 like a Shaker village. That's what we did in
9 concept. So, which one is which?

10 CHAIRMAN STUTO: That might have been the
11 developer's own idea.

12 MR. ROSANO: They reached out to the
13 historical society and got the Shaker people
14 involved and the building facades were
15 basically a Shaker village and now you're
16 saying is it going to be different next week?

17 MR. HERSHBERG: Again, we made a point
18 before we even had our DCC meeting - we made a
19 point of meeting with Starlyn, who is the
20 Executive Director out there and that was her
21 opinion. She said that the board had to
22 approve it but they don't believe that there
23 is a need to try to mimic Shaker construction.
24 She said there is no advantage to that. They
25 think that it doesn't do justice to the

1 historic nature of the remnants of the Shaker
2 settlement. I'll let her speak for herself. I
3 assume that they are going to transmit a
4 letter to the department at some time during
5 this process.

6 MR. ROSANO: Why did she think that you
7 reached out to her then?

8 MR. HERSHBERG: Again, we did it because
9 we're in a historic district and as a routine,
10 if I'm in a historic district, one of my first
11 stops is always with - - sometimes we make
12 presentations to the boards and I think that
13 its an important goal here to try to do that.
14 Even before we came to this Board and before
15 we came to DCC I was concerned enough that
16 we're in a historic district. That's one of my
17 first agenda items. I always try to have that
18 resolved. Nothing could be worse than coming
19 before this Planning Board for concept
20 approval and the Executive Director of
21 Historic Districts say we hate this plan, we
22 don't like it and we oppose it.

23 MR. ROSANO: It just seems ironic. I
24 don't think that you're going to see too many
25 mosques in a Shaker village.

1 MR. HERSHBERG: The Russian Orthodox
2 Church and a mosque are a unique type of
3 architecture and you can't blend it.

4 MR. ROSANO: I guess my point is that
5 you've gone further than I think you should
6 have had to go. I appreciate it.

7 MR. HERSHBERG: I'm always concerned
8 because historic districts do have certain
9 requirements. That's why it becomes a Type I
10 action and we have to do this kind of review.
11 I think that it was a worthwhile meeting
12 because she gave us some guidance. She said go
13 out and look at our herb garden and she gave
14 me a list of vegetation they like. We talked
15 about roses and pear trees and stuff like
16 that. That was the genesis for a large portion
17 of our landscaping plan.

18 MR. AUSTIN: Is there an option? We were
19 just looking at the rear elevation. That's a
20 lot of brick. Is there an option of breaking
21 up some of the material on the outside a
22 little bit?

23 MR. DEFOREST: Usually, we're arguing the
24 other way and saying, can you put less brick
25 on the building? Here is a client that says we

1 want zero maintenance and they're trying to
2 make this a building that stands the test of
3 time. That was one of the requirements that
4 goes first and we thought that would be slam
5 dunk with the Town to do an office building.

6 MR. ROSANO: I don't have a problem with
7 it at all. Sometimes I think that we ask for
8 too much.

9 CHAIRMAN STUTO: Mr. Fahey?

10 MR. FAHEY: In talking about the traffic
11 mitigation -- there's a 40 mile per hour limit
12 and they always do 50. Is it feasible for the
13 Town to do some traffic calming up there while
14 we're waiting for those mitigation fees to be
15 spent by lowering that to 30?

16 MR. ROSANO: It's already in here.

17 MR. FAHEY: Will that be acted upon, or
18 is it just a recommendation that sits in the
19 folder? It makes sense with the old neighbors
20 and the new neighbors. There is going to be
21 some problems on there with the traffic
22 conflict and CBA especially during weekday
23 afternoon football games.

24 CHAIRMAN STUTO: Tom, I'll ask you: Will
25 that be effective? Is that realistic?

1 MR. JOHNSON: The Town of Colonie, given
2 its size, can set its own speed limit. That's
3 usually based on some characteristics of the
4 volume, the speeds, the surrounding community
5 and the characteristics of the roadway.

6 MR. FAHEY: It's 30 miles an hour just
7 down the road from the property at the Village
8 line.

9 MR. JOHNSON: I'm trying to remember
10 where it goes to 40. If it goes to 40 in the
11 Village -

12 MR. ROSANO: No, it's at the Town line.

13 MR. JOHNSON: I thought it was right
14 after Shaker Run.

15 MR. ROSANO: Sand Creek Road is 30 all
16 the way from West Albany all the way down.

17 MR. JOHNSON: My concern was if 40 was in
18 the Village - I don't think that the Village
19 can make that change.

20 MR. ROSANO: Sometimes they put the signs
21 up before. They want you to slow down coming
22 into the area.

23 CHAIRMAN STUTO: Gentlemen, anything
24 else?

25 MR. SNAY: I just wanted to go back to

1 the lighting situation. You're basically
2 saying that for all intents and purposes that
3 parking lot won't be lit at night except
4 perhaps to 6:00 or 7:00, or on special
5 occasions when you're having your board
6 meeting. Certainly not all night long.

7 MR. HERSHBERG: No. We actually have a
8 lighting plan which calls for one standard
9 here and there (Indicating). There are only
10 five light standards on the building. They're
11 all directed down and the timing of it -- I
12 guess at this time of year we have them on a
13 photocell. It would probably go on at 4:00 or
14 4:15 when the sun goes down and we could put a
15 timer on it so it could be turned off by the
16 last person who left the building. They say
17 normal business hours go to 5:00. We normally
18 leave them on for an hour afterward just in
19 case somebody stays late. But 7:00 or 8:00 at
20 night - there could be zero lights on except a
21 light over the front and rear door for
22 security purposes.

23 MR. SNAY: Do you have any renderings of
24 the back of the building? It was mentioned
25 that it looked like a lot of brick.

1 Also, by any chance is this going to be a
2 LEED certified building?

3 MR. DEFOREST: We'll be using a lot of
4 green practices and standards.

5 MR. HERSHBERG: It has a lot of LEED
6 features. Going through the LEED process is
7 both expensive and time consuming. We're still
8 going through getting a building certified and
9 it's been about 18 months.

10 CHAIRMAN STUTO: Stormwater being one of
11 the biggest ones, right?

12 MR. HERSHBERG: I can guarantee that LEED
13 only gives you two points for the stormwater.
14 We're going to get both points in this
15 project. Things like the heating system, you
16 can comply with but sometimes at a real cost.
17 There are a lot of LEED like characteristics
18 of the building, but LEED certification is
19 probably not in the cards.

20 MR. SNAY: What are you using to heat the
21 building, natural gas or oil?

22 MR. HERSHBERG: Natural gas.

23 MR. LARSON: My only concern there is
24 again, this field and the style of the
25 building - this really stands out. I have

1 talked to Mr. Hershberg earlier. The two story
2 building is actually a three story building.
3 The normal residential is eight-foot ceiling
4 and the normal commercial building is 10. So
5 that's 20 feet and they're putting on an
6 additional 10 feet on. That's 30 feet. It's a
7 solid brick wall that's sitting in the middle
8 of nowhere.

9 MR. HERSHBERG: Again, the brick wall
10 isn't going to be more than two to 12 - that's
11 24 feet from the ground to the top of the
12 brick.

13 MR. LARSON: Unless you have some
14 basement or structure underneath here -

15 MR. HERSHBERG: This is what you call the
16 water table line. Actually, the ground
17 elevation is relatively close to the floor
18 because we have a handicapped accessible
19 entrance at this location (Indicating). So,
20 this is the ground elevation. This is the top
21 of the brick. That's approximately 24 feet, I
22 would say.

23 The only solution to keep the building
24 height down would be a flatter roof. We think
25 that this roof is much more attractive. It's a

1 federalist style roof. With this peak, it is a
2 typical type of federal architecture. We think
3 that those are features that make it an
4 attractive building. If we fool around with
5 that roof line and make it flatter, it's going
6 to lose a lot of the charm that you see in
7 that building.

8 The rooftop equipment is all behind
9 there. So, it screens from both sounds and
10 view. It's not habitable space on the top
11 floor. But it acts as a screen.

12 MR. SNAY: It looks like this is a third
13 floor.

14 MR. HERSHBERG: No, it's a roof. We're
15 going to have roof mounted equipment and
16 behind that - that's a façade to hide the roof
17 mounted equipment.

18 MR. ROSANO: Basically a screening
19 effect; right, Dan?

20 MR. HERSHBERG: Right.

21 MR. SNAY: You would see the roof mounted
22 equipment if you're driving north on Sand
23 Creek?

24 CHAIRMAN STUTO: Do you have roof coming
25 up in the back on both sides?

1 MR. HERSHBERG: Yes. This plan went much
2 further with regard to screening rooftop stuff
3 than we do on many plans. With many plans they
4 put a small screen around it and this really
5 does a good job of hiding with an
6 architectural feature which is actually what I
7 call a federalist style roof line which is a
8 good effort. These things are high enough
9 where there would be nothing visible behind
10 it; no tops of air coolers or anything like
11 that.

12 MR. LARSON: The pitched roof is
13 attractive, it's just the height of the
14 building. It's hard to envision this because
15 it's so close to the road. Even set back as
16 far as it is, it's very close to the road and
17 there is nothing of that height that's around.
18 It's very imposing and it's very ominous. Like
19 I say, you'd have to see the setting to get an
20 idea of what it's like. The best example that
21 I can give is the other building at the other
22 end of South Family. It's just a big square
23 building like a Walmart with a parking lot all
24 the way around in the middle of this field and
25 you've got the Shaker houses above it looking

1 down on it. It's been preserved. It's so out
2 of character and it just doesn't belong there.
3 If they could only do something to make it
4 look like it fits more.

5 MR. SNAY: Again, it is a very attractive
6 building. It is very imposing looking. It sort
7 of reminds me of the bank over on Wolf Road by
8 Toys R Us. It looks like it probably will last
9 forever. It was compared to some of the
10 buildings farther down past CBA and
11 everything, but you can't see those from Sand
12 Creek Road. Again, I understand your client's
13 concerns about no maintenance and so forth. If
14 there was some way to kind of take it down a
15 notch, that would be a good idea.

16 MR. HERSHBERG: The grade here at the
17 intersection is 19 and one-half. That's five
18 feet higher than the building before it. This
19 building is actually lower than the road. It's
20 unusual in the Town of Colonie. Most of the
21 buildings in the Town are higher than the
22 road. Here, this is lower than the road.
23 That's because we located it here (Indicating)
24 and like I said, if we put this up here, we'd
25 have to fill the site. So, we accommodated it

1 by making the building only slightly higher
2 than the existing ground. This is down already
3 five feet below the roadway elevation. So,
4 some of that gets taken away by the siting of
5 the building.

6 MR. SNAY: I agree with you on that, sir.
7 That is to your advantage. But you have a
8 parking lot there and you have no trees.

9 CHAIRMAN STUTO: That was going to be my
10 point. Can we screen them a little bit?

11 MR. SNAY: Screen them a little bit and
12 get rid of the part of the parking lot that's
13 between Sand Creek and the building. Something
14 that hides that building from being so
15 imposing. If you took that parking lot out
16 between Sand Creek and the building and
17 planted a row of 15 or 20-foot trees, it would
18 be gorgeous. But to look at the side of the
19 building makes me want to play handball.

20 MR. DEFOREST: I think that we probably
21 have some landscaping or some mature trees in
22 that area.

23 MR. SNAY: The church did that and it was
24 very effective for them.

25 MR. ROSANO: If you put the trees on Sand

1 Creek Road, then you're going to be like Wolf
2 Road all over again. You're not going to see
3 the building from the road. Try to drive down
4 Wolf Road right now and find one of those
5 restaurants with the trees there. You can't
6 see the buildings.

7 CHAIRMAN STUTO: I think that's an asset
8 myself, Paul.

9 MR. ROSANO: I'm telling you, you think
10 that you know Wolf Road? Drive it sometime.
11 Sometimes you can't find the buildings that
12 you actually know are there, until you drive
13 past them. It's a great thing to drive right
14 by and have to turn around. You pay for signs
15 and you can't see them because they're blocked
16 by trees.

17 MR. SNAY: Speaking of signs, are there
18 going to be any signs?

19 MR. HERSHBERG: We would propose a small
20 monument sign, like four foot high.

21 MR. SNAY: Which I assume would also be
22 lit?

23 MR. HERSHBERG: We show a sign here. Our
24 sign is shown on this plan here at the
25 entrance driveway, down South Family Drive.

1 That's going to be a monument sign. Again,
2 minimally lit just so you can see the sign.

3 MR. SNAY: Do you have copies of that
4 which are available?

5 MR. ROSANO: You can have mine. I won't
6 be here for the next meeting.

7 CHAIRMAN STUTO: Okay, we're going to
8 bring this meeting to order and entertain a
9 motion to adjourn.

10 We want to say thank you for coming in
11 and thank you to the residents. I hope that
12 you've understood the issues that have come to
13 light and hopefully next time we come back, a
14 lot of them will be resolved. I think that we
15 can get through all of it.

16 MR. HERSHBERG: I don't think that this
17 Board can give us any relief on the traffic
18 mitigation fee.

19 CHAIRMAN STUTO: We can talk to the other
20 powers that be in the Town.

21

22 ***(Whereas the proceeding concerning the above***
23 ***entitled matter was adjourned***
24 ***at 10:35 p.m.)***

25

1 **CERTIFICATION**

2

3

4 **I, NANCY STRANG-VANDEBOGART, Shorthand**
5 **Reporter, and Notary Public in and for the**
6 **State of New York, hereby CERTIFY that the**
7 **record taken by me at the time and place**
8 **noted in the heading hereof is a true and**
9 **accurate transcript of same, to the best of**
10 **my ability and belief.**

11

12

13

14 **NANCY STRANG-VANDEBOGART**

15

16

17 **Dated December 26, 2011**

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24

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Legal Transcription

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